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Former U.S. Intelligence Aides Ask: Was a Lesson of the 70's Forgotten?

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WASHINGTON, Dec. 21 — Whether Lieut. Col. Oliver L. North, when he was a member of the National Security Council staff, acted on his own to divert money from the Iran arms sale to assist Nicaraguan rebels intrigues several former officials and practitioners of the craft of intelligence.

But if Colonel North did not act on his own, these former officials and others say, they are mystified as to why his superiors apparently entrusted him with such functions as evaluating, planning, managing, financing and concealing the existence of the diversion to the contras and other covert actions.

The Iran arms sale, these former officials say, reinforces old lessons about the hazards of covert intelligence actions and underlines a newer lesson about entrusting the direction and execution of secret operations to amateurs and deputized private citizens.

Breaking Protective Barriers

The former officials say White House officials may have forgotten or misunderstood a series of mishaps that crippled United States intelligence circles in the 1970's.

Several of the former officials said one of the more obvious mistakes was a try to avoid legal and customary practices of notifying Congress of covert actions. But they said an even graver criticism would be that the laws and Presidential directives on intelligence activities enacted in the Ford and Carter Administrations, and in theory carried on by President Reagan, apparently were ignored or failed in practice.

The intent of these mechanisms was to insure Presidential accountability for covert operations, said Morton Halperin, a former member of the National Security Council staff and an official of the American Civil Liberties Union who worked with the Senate and House select committees on intelligence to write new legislation in 1980.

"A major motive was to get rid of the whole concept of Presidential deniability," Mr. Halperin said, "to make sure that covert operations could not be undertaken without the President's knowledge and informed approval."

Kenneth Bass, the Department of Justice specialist on intelligence law in the Carter Administration, agreed, saying: "People were sick of arguments over whether it was Bobby Kennedy or Jack Kennedy who approved trying to poison Castro. The aim was to insure Presidential accountability."

Maintaining 'On-Line' Control

Stansfield Turner, the Director of Central Intelligence in the Carter Administration and a retired admiral,

said the procedures to prevent the initiation of covert actions without Presidential knowledge "were a very important concept."

He added, "The kind of off-line operations permitted in the Reagan Administration are bound to lead to trouble."

The C.I.A. has always used non-Government personnel and "outside assets." The distinction of Colonel North's case, experts said, is that in the past the "off-line operators" were not used to manage, direct and evaluate covert operations.

"There is nothing unusual or wrong in contracting with an international arms dealer to furnish a given supply of weapons for a project," said Admiral Turner, who is believed to have done just that to assist Afghan rebels and in some other cases. "But there is no reason the arms dealer has to know the destination and the group the arms are being delivered to."

Richard Moe, the chief of staff for Vice President Walter F. Mondale, said it appeared that the Reagan Administration had made the mistake of "privatizing covert action, diplomacy and even war."

Need for a Political Base

In its final report in 1976 of its investigations into past intelligence scandals the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, popularly known as the Church committee, said:

"The committee has found that when covert operations have been consistent with, and in tactical support of, policies which have emerged from a national debate and the established processes of government, these operations have tended to be a success."

That conclusion is still embraced as true by almost all those familiar with the history of covert operations, said, "In other words," said one former intelligence operator, "you can get away with spooky business if it advances a cause the country as a whole is agreed on and the Congress approves."

Secrecy Taken Too Far

The outside critics uniformly assumed that a primary reason the White House tried to conceal the Iran arms sale and the diversion of proceeds to the Nicaraguan rebels was that it knew it did not have and could not obtain the approval of Congress, or even of senior Cabinet members.

One expert said that while it was difficult enough to keep a more orthodox covert action secret, the Reagan White House apparently compounded its difficulties by trying to keep the Departments of State and Defense and at least parts of the C.I.A. in the dark as well.

"It simply won't work," Admiral

Turner said. "Colonel North apparently got in trouble, first crack out of the box, at the Lisbon airport, and had to turn to the C.I.A. to get him out of trouble."

Admiral Turner seemed to be alluding to reported testimony about the second arms shipment, of Hawk anti-aircraft missile components, in November 1985. The shipment went as far as Portugal, but then no aircraft could be found to transship the parts to Iran. According to sources who heard the testimony about the problem, Colonel North had to telephone a senior C.I.A. official, Duane Clarridge, who put Colonel North in touch with an air charter company previously owned and used by the C.I.A.

That event reportedly caused John McMahon, who was then deputy director of the C.I.A. but who has since retired, to become angry and to insist that established procedures be followed for subsequent arms shipments by obtaining a written "intelligence finding" from the President.

Tinkering With the Law

The outside critics regard the White House's apparent disregard or modification of the "finding" procedure as one of the most fundamental mistakes of the Iran arms sale case.

The finding concept became law in the so-called Hughes-Ryan Act of 1974 and was recodified in the Intelligence Act of 1980. In a finding authorizing a covert action, the President is required to certify that the action is "important to national security," a protection against frivolous acts. The requirement for a Presidential finding is intended to insure that covert acts cannot be concealed from the President himself.

Lastly, the preparation of drafts of a written finding is intended to insure that the practicality and desirability of the contemplated covert action will be reviewed by responsible officials from several departments of Government.

"Restraint is the most important function of the President's advisers," Mr. Moe said, "There is so much that can and often does go wrong with covert actions."

But another former official asserted that restraint "is just what the White House people apparently didn't want." Their motive for secrecy was not only to conceal this from Congress but from George Shultz, who is Secretary of State and who disapproved of the plan.

'Gentleman's Agreement' Broken

By law, the Presidential finding approving a covert action is to be communicated by the Director of Central Intelligence to the two intelligence committees of Congress at some time.

The law permits delay in some circumstances, but according to experts,

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almost every C.I.A. director has made an extra-legal "gentleman's agreement" with the oversight committees as to when and how the director will inform Congress of covert actions.

Trail of Broken Promises

Admiral Turner, according to a former White House official, had an agreement to inform the committees within 48 hours of the time President Carter signed a finding. He did not do this when Mr. Carter signed a finding approving the rescue of American citizens harbored in Iran by the Canadian Embassy. But his failure to do so caused no controversy because it was an action in support of a popularly accepted cause, and one that risked no major embarrassment if it were exposed.

William J. Casey, the current C.I.A. chief, also had an "ad hoc, common-sense gentleman's agreement, even though it was forced out of him, with the committees," an intelligence specialist said.

However, according to several experts Mr. Casey had repeatedly and seriously violated the agreement long before the present controversy.

For instance, in April 1984 Senator

Barry Goldwater, then chairman of the Senate Intelligence Committee, sent Mr. Casey an angry letter berating the director for not clearly informing the committee of a program to mine Nicaraguan harbors.

Mr. Casey apologized in writing and, reportedly, made a new gentleman's agreement. But, according to recent testimony, he urged that the finding approving the Iran arms sale not be reported to the committees.

Describing those past controversies in his 1985 book on the C.I.A., "Secrecy and Democracy," Admiral Turner wrote of the Reagan Administration, "The Administration's willingness repeatedly to flout the Congress reflected a view that oversight was an impediment rather than a necessity for good intelligence in a society like ours."

Sloppy Intelligence Work

Some of the critics of the way the Iran operation was conducted said that the use of off-line management and deputized private individuals in management roles goes beyond bad politics or borderline illegality. They say it also makes for sloppy intelligence work.

Some, for instance, were shocked that Colonel North and the former na-

tional security adviser, Robert C. McFarlane, who had the highest level of national security secrecy clearance, would go personally to Teheran where they conceivably could have been detained, made hostage and interrogated or even tortured about United States secrets.

Representative George E. Brown Jr., Democrat of California and a member of the House Intelligence Committee, said that although it was unlikely that the Iranian Government would have arrested the two men, it was probably "highly imprudent" of them to have gone to Iran.

Other manifestations of amateurism were pointed out by several experts. One involved the supply flights to contra forces within Nicaragua that led to the crash of an aircraft, the capture of Eugene Hausenfus and the death of the rest of the crew. The Administration has denied that it was directly involved in the flights, but the Assistant Secretary of State for Inter-American Affairs, Elliott Abrams, publicly applauded the program.

A former intelligence official said, "Real professionals would have had an extraction program to rescue crews once they ended up on the ground."